

Serial No. 09/835,837
Reply to Office Action of June 23, 2005

REMARKS/ARGUMENTS

Claims 1-19 were presented for examination and are pending in this application. In a Final Official Office Action dated June 23, 2005, claims 1-19 were rejected. The Applicants thank the Examiner for examination of the claims pending in this application and his detailed response to the Applicants' comments. The Applicants address the Examiner's comments below.

Applicants herein amend claims 1, 11, 12, 15, 17, 18 and 19. Claim 6 is canceled without prejudice and no new claims are presently added. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution of the application. In making this amendment, Applicants have not and are not narrowing the scope of the protection to which the Applicants consider the claimed invention to be entitled and do not concede that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seek to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and withdraw them.

I. Claim rejection under 35 U.S.C. §112

The Examiner rejects claim 18 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner asserts that the phrase "in exchange for payment" was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or to which it is most nearly connected, to make and/or use the invention.

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Claim 18 is herein amended and is now believed to be in compliance with the requirements set forth in 35 U.S.C. §112. The Applicants respectfully request withdrawal of the rejection and reconsideration of the claim.

II. Claim rejections under 35 U.S.C. §102 and 35 U.S.C. §103

Claims 1-5 and 7-11 were rejected under 35 U.S.C. §102(b) as being anticipated by "Request for Comments (RFC) 1034: Domain Names – Concepts and Facilities" by Mockapetris, P. ("RFC 1034"). Applicants respectively traverse these rejections in light of the following remarks and respectfully request reconsideration.

MPEP §2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The claims as currently amended recite features lacking in the applied reference. For example, independent claim 1 recites, among other things, "one or more data storage devices configured as a storage area network accessible through the intermediary server and having a plurality of data units, including the stored data that is requested by the client application, stored at selected locations therein, the one or more data storage devices providing scalable data service functionality." RFC 1034 fails to disclose each and every element of claim 1 including the aforementioned element.

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The Examiner states in the office action dated June 23, 2005 with regard to claim 6 that, "RFC 1034 does not disclose wherein at least some of the storage device[s] are configured as a storage area network." The Examiner argues that it would have been obvious to one skilled in the art to use a storage area network "because the Applicant has not disclosed that using the limitation undisclosed in "RFC 1034" provides any sort of an advantage." The Applicants respectfully disagree with the Examiner's conclusion.

The Applicants specifically outline and disclose advantages of the present invention when associated with storage area networks on page 13, line 17 through page 15, line 26 of the specification. One advantage is the ability of the present invention to readily scale data service functionality. The specification states, "not only can the data itself be distributed, but the data service functionality and behavior is readily and dynamically ported to any of a number of intermediary computers in contrast to conventional database systems where the database functionality is confined to a particular server or limited set of servers. Id.

The ability to scale data storage functionality of a storage area network is a significant improvement over the prior art. For example, through the present invention, a database owner may choose to use multiple data servers that are co-located or distributed throughout the network. To avoid congestion, additional front-ends may be implemented or assigned to particular data servers. Each front-end is dynamically re-configurable by updating address parameters to serve particular data servers. Client traffic is dynamically directed to available front-ends to provide load balancing. Hence, when quality of service drops because of a large number of client accesses to a particular data server, an additional front-end can be assigned to the data server and subsequent client requests directed to the newly assigned front-end to distribute traffic across a broader base. This scalability greatly enhances the functionality of data access and retrieval of a storage area network.

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The examiner also asserts that the Applicants' Invention would have preformed equally well with the Internet as described in RFC 1034 as in the recited claims because data transferred between a client and a storage device traverses the network regardless of the type of storage type used. While the data transferred between a client and a storage device traverse the network, how it traverses the network is unique under the Applicants' invention.

The Applicants' invention allows data to be funneled through large connections. Clients no longer conduct all of their data transactions directly with a data server. Instead, clients conduct some and preferably a majority of these transactions with front-ends, which in turn access the functions of data server. These large connections between a front-end and back-end can be permanently maintained, shortening the many TCP/IP connection sequences normally required for many clients connecting and disconnecting to a storage network, thus effectively, increasing network resources. Applying the Internet as described in RFC 1034 leads to the very problem of network congestion that the Applicants' invention solves. The rejection cannot stand.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 By the Examiners' own admission, RFC 1034 does not set forth, either expressly or inherently, each and every element set forth in claim 1. The Applicants, therefore, respectfully request that the rejection be withdrawn. Claim 2-5 and 7-10 depend from claim 1 and are, for at least the same reasons, not anticipated by RFC 1034. Accordingly, the Applicants request the withdrawal the these rejections as well.

RFC 1034 also fails to set forth each and every element of amended claim 11. For at least the same reasons the Applicants request the Examiner withdraw the rejection of claim 11.

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The Examiner's assertion that the limitation introduced in claim 6 is unpatentable over RFC 1034 is without merit.

MPEP §2143 provides:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

RFC 1034 does not teach or suggest funneling data requests through large connections. On the contrary, RFC 1034 appears to teach and suggest a system wherein each client individually communicates and transfers data with one or more data sources. Such an architecture on a large scale can lead to system wide congestion, data loss, and failure to meet performance criteria. The Applicants' invention solves these unforeseen problems.

RFC 1034 fails to teach or suggest all of the claim limitations recited in independent claims 1, 11, 12, 18 and 19. For at least the aforementioned reasons the Applicants submit that claims 1, 11, 12, 18 and 19 are patentable over RFC 1034.

The Examiner also rejects claims 12-19 as being anticipated by U.S. Patent No. 6,185,598 ("Farber et al."). The Applicants' comments with respect to RFC 1034 apply equally to Farber et al. making the Examiner's rejections of claims 12-19 moot. Farber et al. does not set forth each and every element of independent claims 12, 18 and 19. Specifically, Farber et al. does not appear to

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disclose "storing a data object at a specific location in a network-connected storage area network" or "one or more storage mechanisms includes a storage area network" as recited in claims 12 and 18 respectively. Nor does Farber et al. appear to disclose "identifying a specific storage location in a storage area network of the second version data object in response to the received token" as stated in claim 19. The Applicants therefore respectfully request the rejections be withdrawn and submit that claims 12, 18, and 19 are in condition for allowance. Claims 13-17 depend from claim 12 and are for at least the same reasons not anticipated by Farber et al.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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